

**Intergovernmental Water Board (IWB)**  
**Meeting Minutes**  
**February 14, 2007**  
**Tigard Public Library**  
**2nd Floor Conference Room**  
**13500 SW Hall Blvd.**  
**Tigard, OR 97223**

**Members Present:** Gretchen Buehner, Patrick Carroll, George Rhine, Bill Scheiderich (left the meeting at 6:31 p.m.), and Dick Winn

**Members Absent:** None

**Staff Present:** Public Works Director Dennis Koellermeier  
Water Quality & Supply Supervisor John Goodrich  
IWB Recorder Greer Gaston  
Financial Operations Manager Roger Dawes

**1. Call to Order, Roll Call and Introductions**

Commissioner Scheiderich called the meeting to order at 5:32 p.m.

**2. Public Comments:** None

**3. Receive and File Minutes from the November 14, 2006, Joint Meeting with Lake Oswego and Tigard City Councils**

Commissioner Carroll motioned to receive and file the November 14, 2006, minutes; Commissioner Rhine seconded the motion. The motion was approved by unanimous vote.

**4. Approval of Minutes – January 10, 2007**

Commissioner Buehner motioned to approve the January 10, 2007, minutes; Commissioner Carroll seconded the motion. The motion was approved by unanimous vote.

**5. Royal Mobile Villa Credit for Leak Request**

Mr. Dawes provided information on the leak. Staff calculated the credit at \$3,980.08. The IWB is required to approve credits exceeding \$500.

Commissioner Carroll motioned to approve the adjustment as submitted; Commissioner Winn seconded the motion. The motion was approved by unanimous vote.

**6. Water Building/Asset Discussion - Continued from the January 10, 2007 Meeting**

Mr. Koellermeier reported the City of Tigard's (COT's) interest in acquiring the water building had not changed. He distributed two flowcharts depicting options for Tigard's ownership of the water building and the surplus property at the Canterbury site.

Commissioner Scheiderich said there were two issues before the IWB:

- What is the preferred disposition of the water building?
- If disposing of the building, what should be done with the proceeds? Possible suggestions included a cash payout to IWB members, a rate rebate, or deposit the funds in a capital improvement reserve.

The Commissioners responded as follows:

Commissioner Carroll City of Durham	The Durham City Council voted unanimously to retain ownership of the water building and enter into an equitable, long-term lease agreement with the COT. Money generated from rent should be placed in the water capital fund.
Commissioner Winn City of King City	Commissioner Winn would honor the 1993 Intergovernmental Agreement that established the IWB and transfer ownership to the City of Tigard.
Commissioner Rhine Tigard Water District (TWD)	The TWD had not discussed the disposition of the water building, but the surplus Canterbury property had been discussed. The sentiment was proceeds resulting from the sale of a water asset need to be reinvested in water capital improvement projects.
Commissioner Buehner City of Tigard	The Tigard City Council is ready to act with regard to ownership and is also supportive of putting funds into a long-term capital fund. The COT wants an equitable solution.

The Board briefly discussed the improvements the COT is planning for the water building.

Commissioner Scheiderich proposed the following options for the Board's consideration:

- Lease Allowing for Improvement Credit

The COT and the IWB could draft a lease in which the City would get depreciated credit for the water building improvements should the IWB partnership dissolve and the lease be terminated prematurely.

- Title Transfer to IWB Members

Commissioner Scheiderich recognized the City of Tigard did not want to invest \$600,000 in a building it does not own. He proposed the City become the property's owner of record. The TWD would retain a proportionate share in the building, while deeding the remaining shares to the Cities of Tigard, King City, and Durham. The City of Tigard, as the largest shareholder, would have majority ownership in the building. This arrangement is known as a tenancy in common and could be terminated by any of the tenants (IWB members) removing themselves from the tenancy. This would force a sale of that member's shares in the building. Typically, the other tenants would buy out these shares. The method to allocate shares would need to be formulated.

Commissioner Scheiderich gave the example of the COT putting \$600,000 of improvements into the building, but also owning a 60 percent share in the deed record. The City would be improving its own building and this would not be a concern for the other members.

Commissioner Rhine said this arrangement was similar to other joint ownership arrangements the IWB had entered into. Commissioner Winn commented this option was reasonable.

Commissioner Scheiderich said such an arrangement would protect the ownership interests of each IWB member.

Commissioner Buehner advised if the building were to be sold, all the members would have to agree to the sale. Commissioner Scheiderich added a separate right of first refusal agreement could be created. In the event one tenant should decide to back out of the tenancy, this agreement would give the remaining tenants first option to buy the departing tenant's shares.

Commissioner Carroll countered if the larger shareholders decided to sell the building, it would be difficult for the other members to raise enough money to buy the available shares.

Commissioner Buehner advised the general rule of joint ownership is none of the partners can sell unless all the partners are in agreement. The smallest partner could prevent a sale, despite the preference of all the other members. A side agreement could be created stating any tenant who wants out of the tenancy could either require a sale of the property or have their interest bought out. If the COT chose this route, the other IWB members might not be able to come up with the money to buy the City's shares. This scenario would probably necessitate the sale of the building.

Commissioner Carroll said he could support an agreement in which the water building could not be transferred out of the water district without the approval of all four IWB members.

Commissioner Buehner responded this was the general rule. Commissioner Carroll said he would want these terms included in an agreement.

Commissioner Scheiderich requested a legal opinion: If the TWD were to deed the water building title to the IWB members, based on some type of proportional share formula, could any of the owners in common (IWB members) prevent sale of the asset outright? Could any one of the tenants in common force a sale?

Commissioner Carroll expressed support for a right of first refusal agreement. He emphasized the important thing would be to create a document guaranteeing the water building stays under the control of the water district representatives until all the members find a compelling reason to liquidate the asset.

Mr. Koellermeier noted even after improvements, the water building will only house about half of the Public Works Department staff. At some point in the future, it is likely the department will need to move to a larger facility and the water building would no longer be used for water purposes.

Commissioner Buehner said a side agreement could be created to transfer ownership to the new facility based on the same ratios established for the water building. Commissioner Carroll said if there came a time when the water building is no longer of any value, he would support selling the property with the proceeds going to the water fund. Rather than have ownership in the new facility, he proposed the water-related functions could be assessed an equitable fee based on their proportional use of the new building.

Commissioner Winn added he wasn't concerned about the disposition of the water building as long as it doesn't affect the operation of the water system.

The Board discussed the Public Works Department future facility.

Commissioner Rhine remarked if the water building had no public service value and was also not needed for the operation of the water system, then the building would be surplus and should be sold. Other IWB members agreed. Commissioner Carroll added the proceeds should go to the water system. Mr. Koellermeier agreed, provided the water fund had paid for the initial improvements.

Commissioner Rhine said it was reasonable for improvements to be credited or backed out of the sale. Commissioner Carroll asserted not all improvements should qualify for a credit. He continued by saying a major capital expense, like replacement of the HVAC system, should qualify, while more minor improvements, like erecting walls for offices, should not. Commissioner Scheiderich suggested two options should the COT vacate the water building before the improvements were fully depreciated:

- The City could be given a higher share of the proceeds from the sale of the building.
- The City could accept the loss.

Commissioner Winn remarked the building was also appreciating in value.

Commissioner Buehner cautioned if the IWB created a tenancy in common, it needed to be aware one member of the IWB would have the power to halt whatever the other members wished to do. She suggested when the time comes to move to a new facility, all the members should agree to be reasonable and prudent and to sign off on the disposition of the water building.

The IWB agreed to move forward with an agreement.

Mr. Koellermeier commented this arrangement worked for the COT because money wouldn't have to be moved from one fund to another.

Commissioner Scheiderich requested Mr. Koellermeier return with some options on how shares in the water building might be calculated.

Commissioner Carroll asked how the \$600,000 in improvements will affect the agreement. Commissioner Buehner noted there would need to be a specific allocation of what goes into the HVAC system versus more traditional tenant improvements. Mr. Koellermeier said the cost of the HVAC system is approximately \$350,000.

Mr. Koellermeier explained between 58 and 60 percent of the water building complex is being used for water system operations.

Commissioner Scheiderich proposed 60 percent of the improvements should then be charged to the water fund. As tenants in common, each of the IWB members would share in the water building's appreciation. Commissioner Carroll asked how the remaining 40 percent of non-water functions would be charged to the COT. Commissioner Scheiderich countered that since the City owns more than a 40 percent share in the building, this was a moot point as far as the IWB is concerned.

Commissioner Carroll asserted any non-water related functions should have to compensate the water board for the use of the building. Commissioner Winn commented this compensation should go to the water capital improvement fund. The other Commissioners concurred.

Mr. Koellermeier said he would draw up the points the IWB had discussed.

With regard to the water building, Commissioner Carroll commented the IWB's arrangement with the COT could be a "paper exercise" where no actual money changed hands.

Commissioner Buehner noted fair rental value needed to be determined.

Commissioner Carroll added that 40 percent of the water building improvements should be considered lease tenant improvements because this portion of the building would be allocated for non-water functions. He continued by saying these users should pay a monthly rent based on square footage.

The IWB agreed operational costs of the building would be allocated based on the use of the building. Mr. Koellermeier clarified operational costs of the building are water department costs, but they have a rent revenue.

Commissioner Buehner requested Attorney Clark Balfour be hired to work on the IWB's behalf.

Mr. Koellermeier outlined the process for the COT to acquire the surplus property at Canterbury as follows:

- Determine the boundary of the surplus property
- Declare the property as surplus
- IWB approves the sale of the surplus property
- The COT buys the surplus property for park purposes
- Proceeds from the sale are credited to the water capital fund

The TWD Board of Commissioners has agreed to sell the property for the appraised value. Commissioner Rhine commented the conditions of the sale of surplus property were spelled out in the 1993 agreement that created the IWB.

Mr. Koellermeier advised the TWD had leased one corner of the Canterbury property to the John Tigard House. With regard to the sale of the surplus property, he proposed two options:

- Exclude the property leased by the John Tigard House from the surplus property. In this case, the TWD would continue to own and lease this section of the property.
- Include the John Tigard House in the surplus park property with the understanding the COT will continue the lease. In this case, Mr. Koellermeier asserted the City should not have to pay for that section of the property.

The IWB expressed a preference for the latter option. Commissioner Scheiderich noted this arrangement should be subject to a lease strictly for the purpose of preserving the John Tigard House. He suggested a conservation easement. Commissioner Rhine said the COT Parks Division could administer the property.

The IWB discussed a property appraisal. In order to buy the property, Mr. Koellermeier advised the COT's purchasing rules would necessitate an appraisal. He advised that although the City wanted to purchase the property for a park, the Tigard City Council would have to approve the purchase before the sale was finalized. Commissioner Scheiderich requested the partition be designed in such a way that the property would be attractive to other buyers besides Tigard.

Commissioner Scheiderich requested Mr. Koellermeier provide some options regarding the apportionment of the proceeds regarding the water building. Revenue generated might be considered in the formula.

**7. Election of a Chair and Vice-Chair**

Commissioner Carroll motioned to reelect Commissioner Scheiderich to the position of Chairman; Commissioner Rhine seconded the motion.

Commissioner Buehner asked Commissioner Carroll if he would continue to serve as Vice Chairman, Commissioner Carroll said yes. Commissioner Rhine seconded the motion.

The motions were approved by unanimous vote.

*Note: Commissioner Scheiderich left the meeting at 6:31p.m.*

**8. Informational Items**

Mr. Koellermeier introduced Mr. Goodrich who provided information on proposed updates to the cross connection program. In order to bring the program into compliance with state regulations, Mr. Goodrich said the Tigard City Council will consider revisions to its municipal code regarding cross connections. The proposed updates are comparable with other local jurisdictions, including the Tualatin Valley Water District.

The IWB discussed backflow, different types of backflow prevention devices, and the process for informing the public about the regulations. Commissioner Buehner advocated educating water customers about backflow.

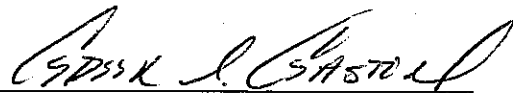
**9. Non-Agenda Items: None**

**10. Next Meeting – Wednesday, March 14, 2007, 5:30 p.m.**

***Tigard Public Library, 2nd Floor Conference Room, 13500 SW Hall Blvd., Tigard, Oregon***

**11. Adjournment**

At 6:51 p.m. Commissioner Rhine motioned to adjourn the meeting; Commissioner Buehner seconded the motion. The motion was approved by unanimous vote.



Greer A. Gaston, IWB Recorder

Date: April 11, 2007